

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ANDREW J. PERLMUTTER,)

Plaintiff,)

v.)

REED ELSEVIER, INC. D/B/A/)

LEXISNEXIS;)

Defendant.)

Civil Action No.:
1:07-CV-1762-GET

PLAINTIFF’S REPLY TO DEFENDANT’S COUNTERCLAIMS

Pursuant to Fed. R. Civ. P. 12 Plaintiff hereby responds to the counterclaims of Reed Elsevier, Inc. d/b/a LexisNexis (hereinafter “Defendant”).

FIRST DEFENSE

Defendant’s counterclaims in whole or in part, fail to state a claim upon which relief may be granted.

SECOND DEFENSE

Some or all of Defendant’s counterclaims are barred by the doctrines of waiver and/or estoppel.

THIRD DEFENSE

Some or all of Defendant's counterclaims are barred by the doctrine of unclean hands.

FOURTH DEFENSE

Some or all of Defendant's counterclaims are barred by Defendant's prior breach of contract.

FIFTH DEFENSE

Some or all of Defendant's counterclaims are barred by the doctrine of laches.

SIXTH DEFENSE

Plaintiff did not act in bad faith, was not stubbornly litigious, and did not cause Defendant unnecessary trouble and expenses warranting attorneys' fees under O.C.G.A. § 13-6-11.

SEVENTH DEFENSE

Plaintiff reserves the right to assert any and all additional defenses.

EIGHTH DEFENSE

REPLY

Plaintiff responds to the enumerated allegations of Defendant's counterclaims as follows:

1.

On information and belief, Plaintiff admits the allegations contained in Paragraph 1 of Defendant's counterclaims.

2.

Plaintiff admits the allegations contained in Paragraph 2 of Defendant's counterclaims.

3.

Plaintiff admits the allegations contained in Paragraph 3 of Defendant's counterclaims.

4.

Plaintiff admits the allegations contained in Paragraph 4 of Defendant's counterclaims.

5.

Plaintiff admits the allegations contained in Paragraph 5 of Defendant's counterclaims.

6.

Plaintiff admits the allegations contained in Paragraph 6 of Defendant's counterclaims.

7.

Plaintiff admits the allegations contained in Paragraph 7 of Defendant's counterclaims.

8.

Plaintiff denies the allegations contained in Paragraph 8 of Defendant's counterclaims.

9.

Responding to Paragraph 9 of Defendant's counterclaims, Plaintiff admits only that LexisNexis terminated Perlmutter and that Perlmutter's last day of employment was March 31, 2007. Plaintiff denies the remaining allegations contained in Paragraph 9.

10.

Responding to Paragraph 10 of Defendant's counterclaims, Plaintiff admits only that Plaintiff has not paid LexisNexis \$50,000. Plaintiff denies that he is obligated to pay LexisNexis any amount and denies all remaining allegations of Paragraph 10.

COUNT I – BREACH OF CONTRACT

11.

Responding to Paragraph 11 of Defendant's counterclaims, Plaintiff incorporates by reference its responses to the allegations in Paragraphs 1 through 10 of Defendant's counterclaims as if fully set forth herein.

12.

Plaintiff denies the allegations contained in Paragraph 12 of Defendant's counterclaims.

COUNT II – ATTORNEYS' FEES UNDER O.C.G.A. § 13-6-11

13.

Responding to Paragraph 13 of Defendant's counterclaims, Plaintiff incorporates by reference its responses to the allegations in Paragraphs 1 through 12 of Defendant's counterclaims as if fully set forth herein.

14.

Plaintiff denies the allegations contained in Paragraph 14 of Defendant's counterclaims.

COUNT III – PREJUDGMENT INTEREST

15.

Responding to Paragraph 15 of Defendant’s counterclaims, Plaintiff incorporates by reference its responses to the allegations in Paragraphs 1 through 14 of Defendant’s counterclaims as if fully set forth herein.

16.

Plaintiff denies the allegations contained in Paragraph 16 of Defendant’s counterclaims.

PRAYER FOR RELIEF

To the extent that the section entitled “Prayer For Relief” requires a response from Plaintiff, Plaintiff denies all allegations contained therein and denies all other and further allegations set forth in Defendant’s counterclaims unless specifically admitted or explained herein.

WHEREFORE, having set forth its Complaint against the Defendant, and having responded to Defendant’s counterclaims, Plaintiff prays that it be granted such relief as he has requested in his Complaint, that Defendant’s counterclaims be dismissed in their entirety, that Plaintiff be granted judgment against Defendant as to the matters prayed for in his Complaint and as to the claims asserted in the counterclaims, and that he have and recover his expenses of litigation, including

reasonable attorney's fees, his costs in this matter, and such other and further relief as the Court may deem just and proper.

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), the undersigned counsel for Andrew J. Perlmutter certifies that the foregoing Plaintiff's Reply to Defendant's Counterclaims has been prepared in Times New Roman font, 14-point type, which is one of the font and point selections approved by the Court in Local Rule 5.1(B).

Respectfully submitted this 15th day of August, 2007

s/Jaclyn C. Platten
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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2007, I electronically filed PLAINTIFF'S
REPLY TO DEFENDANT'S COUNTERCLAIMS to Defendant's Answer and
Counterclaims using the Court's CM/ECF system which will automatically send e-
mail notification of such filing to the following attorneys of record:

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